

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 2, 4-7, and 9-11 are pending in the present application, Claims 1 and 4-7 having been amended, Claims 9, 10, and 11 having been added, and Claims 3 and 8 having been canceled without prejudice or disclaimer. Support for the amendments to Claims 1 and 5-7 is found, for example, in original Claim 3. Support for the amendments to Claim 4 is found in original Claim 1. New Claims 9-11 correspond to Claims 1, 4, and 5, without the means-plus-function language. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claim 8 was rejected under 35 U.S.C. §101 as directed toward non-statutory subject matter; Claims 1-8 were provisionally rejected on the ground nonstatutory double patenting over Claims 1-8 of copending Application Serial No. 10/694,777 in view of Gronemeyer et al. (U.S. Patent No. 6,363,359, hereinafter Gronemeyer); and Claims 1-8 were rejected under 35 U.S.C. §102(a) as anticipated by Gronemeyer et al. (U.S. Patent No. 6,363,359).

Applicants thank the Examiner for the courtesy of an interview extended to Applicants' representative on November 2, 2006. During the interview, differences between the present invention and the applied art, and the rejections noted in the outstanding Office Action were discussed. No agreement was reached pending the Examiner's further review when a response is filed. Arguments presented during the interview are reiterated below.

With respect to the rejection of Claim 8 under 35 U.S.C. §101, this ground of rejection is moot in view of the cancellation of Claim 8.

With respect to the provisional double patenting rejection, Applicants respectfully request that the provisional double patenting rejection be held in abeyance until the conditions are ripe for a non-provisional double patenting rejection.

With respect to the rejection of Claim 3 as anticipated by Gronemeyer, the subject matter of which is incorporated into amended Claim 1, Applicants respectfully traverse the rejection. Amended Claim 1 recites, *inter alia*, “said update management data is attached to said installed software, and said acquisition means of said electronic device acquires said attached update management data from said installed software.” Gronemeyer does not disclose or suggest these elements of amended Claim 1.

Gronemeyer discloses that a sentinel is responsible for inspecting the client computing device and determining needed goods or services based on the configuration of client computing device.¹ The sentinel creates a log of software and hardware and sends the log to a server, and in response the server responds with available sales and upgrade options for items identified in the log.²

The outstanding Office Action equates the above-noted subject matter of amended Claim 1 to the configuration log of Gronemeyer. However, the configuration log is not attached to the installed software. Further, the outstanding Office Action equates the claimed “update management data” to the timing of when the sentinel is loaded.³ No part of the sentinel is ever attached to the installed software. Thus, Gronemeyer does not disclose or suggest “said update management data is attached to said installed software, and said acquisition means of said electronic device acquires said attached update management data from said installed software.”

In view of the above-noted distinctions, Applicants respectfully submit that Claim 1 (and Claim 2 dependent thereon) patentably distinguish over Gronemeyer. Amended Claims 5-7 and new Claims 9 and 11 recite elements similar to those in amended Claim 1. Thus,

¹ Gronemeyer, col. 2, lines 50-53.

² Gronemeyer, col. 7, lines 56-58.

³ Office Action, page 6.

Applicants respectfully submit that Claims 5-7, 9, and 11 patentably distinguish over Gronemeyer, for at least the reasons stated for amended Claim 1.

With respect to the rejection of Claim 4 as anticipated by Gronemeyer, Applicants respectfully traverse the rejection. Claim 4 recites, *inter alia*, “wherein said acquisition means of said electronic device acquires said update management data from a developer of said installed software.” Gronemeyer does not disclose or suggest this element of Claim 4.

The outstanding Office Action equates the claimed “update management data” to the timing of when the sentinel is loaded.⁴ Assuming, *arguendo*, that this is correct, Gronemeyer does not disclose or suggest that the timing of when the sentinel is loaded is acquired from a developer of the installed software.

In view of the above-noted distinction, Applicants respectfully submit that Claim 4 patentably distinguishes over Gronemeyer. In addition, new Claim 10 recites elements similar to those of Claim 4. Thus, Applicants respectfully submit that Claim 10 patentably distinguishes over Gronemeyer for at least the reasons stated for Claim 4.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073
Joseph Wrkich
Registration No. 53,796

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
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⁴ Office Action, page 6.